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Department of the Treasury
Washington, DC 20224

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LEGEND:

Taxpayer A =

Trust B =

Individual C =

Trust D =

Date E =

Date F =

Date G =

IRA X =

IRA Y =

IRA Z =

$$\underline{a} =$$
b =

Dear _____ :

This ruling responds to your letter dated January 14, 2008, on behalf of Trust, requesting a ruling under § 2601 of the Internal Revenue Code.

The facts submitted are as follows:

Individual C established IRA Z during his lifetime to receive lump sum distributions from his employer's retirement plan. Prior to his death, Individual C executed a trust agreement ("Trust D") that was partially funded by IRA Z.

Individual C died on Date E, before September 25, 1985, at which time Trust D became irrevocable and, pursuant to the beneficiary designation for IRA Z, the undistributed balance of IRA Z remaining at Individual C's death became payable to Trust D. The undistributed balance of IRA Z in Trust D and the other assets of Trust D were divided into separate trusts for the benefit of certain of Individual C's descendants, including Taxpayer A. Trust B, the trust created for the benefit of Taxpayer A, received an a% interest in IRA Z.

On Date F, the Trustees of Trust B elected to treat the entire share of the undistributed balance of IRA Z received by Trust B as a separate IRA (IRA Y) subject to the distribution requirements of § 408(a)(6) then in effect and § 1.408-2(b)(7)(ii) of the Income Tax Regulations.

In a private letter ruling dated Date G, the Internal Revenue Service ruled that under § 408 in effect on the date of Individual C's death, as applied with respect to Trust B, Taxpayer A is the individual for whose benefit IRA Y is maintained for purposes of determining (a) when distributions from IRA Y must be made or commence, (b) the measuring life for installment distributions from IRA Y, and (c) the applicability of the additional premature withdrawal tax with respect to IRA Y.

The Trustees of Trust B propose to divide IRA Y into two separate individual retirement accounts. This will be accomplished by transferring a portion of the assets held by IRA Y in an investment account into a new individual retirement account (IRA X) that will continue to be owned by Trust B.

Following the division, the Trustees of Trust B propose to begin making annual distributions from IRA X to Taxpayer A, age b. The proposed annual distribution amount will be determined each year by dividing the account balance of IRA X as of December 31 of the prior year by an annuity factor which is equal to the present value of a \$1 per year single-life annuity with such annuity factor (based on Taxpayer A's age in that distribution year) calculated using an assumed interest rate equal to 120% of the federal mid-term rate as of December 31 of the prior year and the mortality table in Appendix B of Revenue Ruling 2002-62. Although the annual distribution amount for each year will be recalculated, the method by which the amount will be determined will remain the same from year to year.

You have asked us to rule as follows:

The generation-skipping transfer tax provisions do not apply to Trust B pursuant to §1433(b)(2) of the Tax Reform Act of 1986 and § 26.2601-1(b)(1)(i) of the Generation-Skipping Transfer Tax Regulations, and neither the proposed transfer of part of the Investment Account of IRA Y to IRA X nor the proposed annual distributions from IRA X to Trust B and from Trust B to Taxpayer A will cause Trust B to become subject to the generation-skipping transfer tax provisions pursuant to § 26.2601-1(b)(4).

LAW AND ANALYSIS

Section 2601 imposes a tax on every generation-skipping transfer (GST), which is defined under § 2611 as a taxable distribution, a taxable termination, and a direct skip.

Under section 1433 of the Tax Reform Act of 1986 (the Act), GST tax is generally applicable to generation-skipping transfers made after October 22, 1986. However, under § 1433(b)(2)(A) of the Act and § 26.2601-1(b)(1)(i) of the Generation-Skipping Transfer Tax Regulations, the tax does not apply to a transfer under a trust that was irrevocable on September 25, 1985, except to the extent the transfer is made out of corpus added to the trust by an actual or constructive addition after September 25, 1985.

Section 26.2601-1(b)(4)(i) provides rules for determining when a modification, judicial construction, settlement agreement, or trustee action with respect to a trust that is exempt from the GST tax under § 26.2601-1(b) will not cause the trust to lose its exempt status.

Section 26.2601-1(b)(4)(i)(A) provides, in part, that the distribution of trust principal from an exempt trust to a new trust will not cause the new trust to be subject to the GST tax provisions if: (1) the terms of the governing instrument of the exempt trust authorize distributions to the new trust without the consent or approval of any beneficiary or court; and (2) the terms of the governing instrument of the new trust do not extend the time for vesting of any beneficial interest in the trust in a manner that may postpone or suspend the vesting, absolute ownership, or power of alienation of an interest in property for a period, measured from the date the original trust became irrevocable, extending beyond any life in being at the date the original trust became irrevocable plus a period of twenty-one years, plus, if necessary, a reasonable period of gestation.

In this case, Trust B was created under the provisions of Trust D. Upon the death of Individual C on Date E, before September 25, 1985, Trust B became

irrevocable. After the proposed division of IRA Y, Trust B will own the new IRA X and will continue to own IRA Y. The proposed transfer of a portion of assets held by IRA Y in an investment account into IRA X is a mere change in the manner in which the assets of Trust D are held, and does not change the terms of Trust D. Moreover, the proposed transfer of assets and the proposed annual distributions to Taxpayer A will not cause property to pass to a lower generation and will not extend the time for vesting of any beneficial interest in Trust D. Therefore, based on the facts submitted and the representations made, we conclude that neither the proposed transfer of part of the investment account of IRA Y to IRA X nor the proposed annual distributions from IRA X to Trust B and from Trust B to Taxpayer A will cause Trust B to become subject to the GST tax.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The ruling contained in this letter is based upon information and representations submitted by the taxpayers and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Katherine A. Mellody
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures

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